

1 HOUSE BILL NO. 113  
2 INTRODUCED BY J. FULLER

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR YOUTH HEALTH PROTECTION; PROVIDING  
5 DEFINITIONS; PROHIBITING CERTAIN MEDICATIONS AND MEDICAL PROCEDURES FOR THE  
6 TREATMENT OF GENDER DYSPHORIA IN MINORS; AND ~~ESTABLISHING A CIVIL PENALTY FOR~~  
7 ~~HEALTH CARE PROVIDERS PROVIDING PROHIBITED TREATMENT PROVIDING FOR ENFORCEMENT.~~"

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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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11 NEW SECTION. Section 1. Short title. [Sections 1 through 5] may be cited as the "Youth Health  
12 Protection Act".

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14 NEW SECTION. Section 2. Purpose. The purpose of [sections 1 through 5] is to enhance the  
15 protection of minors, pursuant to Article II, section 15, of the Montana constitution, ~~from any form of pressure to~~  
16 ~~undergo irreversible medical procedures to change sex prior to attaining the age of majority who experience~~  
17 ~~distress at identifying with their biological sex from being subjects of irreversible and drastic nongenital gender~~  
18 ~~reassignment surgery and irreversible, permanently sterilizing genital gender reassignment surgery despite the~~  
19 ~~lack of studies showing that the benefits of these extreme interventions outweigh the risks.~~

20  
21 NEW SECTION. Section 3. Definitions. As used in this part, unless the context clearly indicates  
22 otherwise, the following definitions apply:

23 (1) "Cross-sex hormones" ~~include antiandrogen, estrogen, and testosterone~~ means testosterone or  
24 other androgens given to biological females at doses that are profoundly larger or more potent than would  
25 normally occur naturally in healthy biological females or estrogen given to biological males at doses that are  
26 profoundly larger or more potent than would normally occur naturally in healthy biological males.

27 (2) "Gender" means the psychological, behavioral, social, and cultural aspects of being male or  
28 female.

1           ~~(2)~~(3) "Gender dysphoria" means a medical diagnosis based on a persistent, marked difference  
2 between a patient's expressed or experienced gender and the gender others would assign the patient causing  
3 clinically significant distress or impairment, as defined in the fifth edition of the Diagnostic and Statistical Manual  
4 of Mental Disorders.

5           ~~(3)~~(4) "Gender reassignment surgery" ~~includes but is not limited to orchiectomy, vaginoplasty,~~  
6 ~~mastectomy, hysterectomy, metoidioplasty, oophorectomy, penectomy, and phalloplasty~~ means any medical or  
7 surgical service that seeks to surgically alter or remove healthy physical or anatomical characteristics or  
8 features that are typical for the individual's biological sex in order to instill or create physiological or anatomical  
9 characteristics that resemble a sex different from the individual's birth sex, including but not limited to genital or  
10 nongenital gender reassignment surgery performed for the purpose of assisting an individual with a gender  
11 transition.

12           (5) "Gender transition" means the process in which an individual goes from identifying with and living  
13 as a gender that corresponds with the individual's biological sex to identifying with and living as a gender  
14 different than the individual's biological sex and may involve social, legal, or physical changes.

15           (6) (a) "Gender transition procedures" means any medical or surgical service, including but not  
16 limited to physicians' services, inpatient and outpatient hospital services, or prescribed drugs related to gender  
17 transition, that seeks to alter or remove physical or anatomical characteristics or features that are typical for the  
18 individual's biological sex and to instill or create physiological or anatomical characteristics that resemble a sex  
19 different from the individual's birth sex.

20           (b) Gender transition procedures include but are not limited to services that provide puberty-blocking  
21 drugs, cross-sex hormones, or other mechanisms to promote the development of feminizing or masculinizing  
22 features in the opposite sex, or genital or nongenital gender reassignment surgery performed for the purpose of  
23 assisting an individual with a gender transition.

24           (c) Gender transition procedures do not include:

25           (i) services to those born with a medically verifiable disorder of sex development, including an  
26 individual with external biological sex characteristics that are irresolvably ambiguous such as those born with  
27 46, XX chromosomes with virilization, 46, XY chromosomes with undervirilization, or having both ovarian and  
28 testicular tissues;

1 (ii) services provided when a physician has diagnosed a disorder of sexual development in which the  
2 physician has determined through genetic or biochemical testing that the individual does not have normal sex  
3 chromosome structure, sex steroid hormone production, or sex steroid hormone action for a biological male or  
4 a biological female;

5 (iii) the treatment of an infection, injury, disease, or disorder that has been caused by or exacerbated  
6 by the performance of gender transition procedures, whether or not the gender transition procedure was  
7 performed in accordance with state or federal law; or

8 (iv) a procedure undertaken because the individual suffers from a physical disorder, physical injury, or  
9 physical illness that would, as certified by a physician, place the individual in imminent danger of death or  
10 impairment of major bodily function unless surgery is performed.

11 (7) "Genital gender reassignment surgery" includes but is not limited to the following surgical  
12 procedures when performed for the purpose of assisting an individual with a gender transition:

13 (a) penectomy, orchiectomy, vaginoplasty, clitoroplasty, or vulvoplasty for biological male patients; or

14 (b) hysterectomy/oophorectomy, reconstruction of the fixed part of the urethra with or without a  
15 metoidioplasty or a phalloplasty, vaginectomy, scrotoplasty, or implantation of erection or testicular prostheses  
16 for biologically female patients.

17 ~~(4)(8)~~ "Health care provider" means a physician licensed under Title 37, chapter 3, an advanced  
18 practice registered nurse licensed under Title 37, chapter 8, or a physician assistant licensed under Title 37.

19 (9) "Nongenital gender reassignment surgery" includes but is not limited to the following surgical  
20 procedures when performed for the purposes of assisting an individual with a gender transition:

21 (a) augmentation mammoplasty, facial feminization surgery, liposuction, lipofilling, voice surgery,  
22 thyroid cartilage reduction, gluteal augmentation (implants), hair reconstruction, or aesthetic procedures for  
23 biologically male patients; or

24 (b) subcutaneous mastectomy, voice surgery, liposuction, lipofilling, pectoral implants, or aesthetic  
25 procedures for biologically female patients.

26 (10) "Puberty-blocking drugs" means the following drugs when used to delay or suppress pubertal  
27 development in children for the purpose of assisting an individual with a gender transition:

28 (a) gonadotropin-releasing hormone (GnRH) analogues or other synthetic drugs used in biological

1 males to stop luteinizing hormone secretion and testosterone secretion; or  
 2 (b) synthetic drugs used in biological females to stop the production of estrogens and progesterone.  
 3 (11) "Sex", "birth sex", or "biological sex" refer to the biological indication of male or female as  
 4 understood in the context of reproductive potential or capacity, including sex chromosomes, naturally occurring  
 5 sex hormones, gonads, and nonambiguous internal and external genitalia present at birth, without regard to an  
 6 individual's psychological, chosen, or subjective experience of gender.

7  
 8 **NEW SECTION. Section 4. Medications and medical procedures prohibited.** A health care  
 9 provider may not:

- 10 (1) prescribe, provide, or administer ~~puberty-suppressing drugs or cross-sex hormones\_ gender~~  
 11 ~~transition procedures~~ to a minor ~~to treat gender dysphoria; or~~  
 12 ~~(2) perform gender reassignment surgery on a minor to treat gender dysphoria; or~~  
 13 ~~(3) remove any otherwise healthy or nondiseased body part or tissue of a minor to treat gender~~  
 14 ~~dysphoria~~  
 15 (2) refer a minor to a health care provider for gender transition procedures.

16  
 17 ~~**NEW SECTION. Section 5. Civil penalties.** A health care provider convicted of violating [section 4]  
 18 shall be fined an amount not less than \$500 or more than \$50,000. Fines collected under this section must be  
 19 deposited in the state general fund.~~

20  
 21 **NEW SECTION. Section 5. Enforcement -- cause of action.** (1) A referral for or provision of gender  
 22 transition procedures to a minor is considered unprofessional conduct and the health care provider is subject to  
 23 discipline by the appropriate licensing entity under Title 37.

24 (2) A person may assert an actual or threatened violation of [sections 1 through 5] as a claim or  
 25 defense in a judicial or administrative proceeding and obtain compensatory damages, injunctive relief,  
 26 declaratory relief, or any other appropriate relief.

27 (3) (a) Except as provided in subsection (3)(b), a person may not bring a claim for a violation of  
 28 [sections 1 through 5] later than 2 years after the day the cause of action accrues.

1 (b) A minor may bring a cause of action through a parent or next friend and may bring an action in the  
2 minor's own name upon reaching majority. The action must be commenced before the minor reaches 38 years  
3 of age.

4 (4) An action under [sections 1 through 5] may be commenced and relief granted in a judicial  
5 proceeding regardless of whether the person commencing the action has sought or exhausted available  
6 administrative remedies.

7 (5) In an action or proceeding to enforce a provision of [sections 1 through 5], a prevailing party who  
8 establishes a violation of [sections 1 through 5] is entitled to recover reasonable attorney fees.

9 (6) The attorney general may bring an action to enforce compliance with [sections 1 through 5].  
10 Nothing in [sections 1 through 5] may be construed to deny, impair, or otherwise affect a right or authority of the  
11 attorney general, the state of Montana, or an agency, officer, or employee of the state to institute or intervene in  
12 a proceeding.

13  
14 NEW SECTION. Section 6. Codification instruction. [Sections 1 through 5] are intended to be  
15 codified as an integral part of Title 50, and the provisions of Title 50 apply to [sections 1 through 5].

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17 NEW SECTION. Section 7. Severability. If a part of [this act] is invalid, all valid parts that are  
18 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,  
19 the part remains in effect in all valid applications that are severable from the invalid applications.

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